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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA2007 AUG 23 PM 4:28
DERRA P. JACKETT, CLK
DISTRICT COURT
MIDDLE DISTRICT ALAALONZO AUSTIN
Plaintiff,

V.

CITY OF Tuskegee,
Mayor: Johnny Ford,
Municipal Court Judge
ALBERT C. BULLS III,
Police Chief Patrick,
Prosecutor R. Keith Thomas,
and Police Officer
Bernice Dawson,
(individually and
officially).
Defendants,

Case No. 3:07cv754-MHT

"Demand for Jury Trial"

COMPLAINT.FOR DEPRIVATION OF CIVIL RIGHTS, 42 U.S.C. § 1981 & 1983
and § 1985.

Plaintiff alleges, (1) That Defendants City of Tuskegee, Mayor Johnny Ford, Municipal Court Judge Albert C. BULLS III, City Police Chief Patrick, Prosecutor R. Keith Thomas and City Police Officer Bernice Dawson, of the City of Tuskegee. Wrongfully and unlawfully initiated a malicious abuse of criminal process prosecuting and finding me guilty of speeding pursuant to an unlawful and invalid traffic ticket issued by City officer Dawson for speeding out side of the corporate limits of the municipality in violation of § 32-5A-171(9).

And (2) the above named Defendant's are in violation of 42 U.S.C. § 1981 and § 1983 and § 1985 depriving me of my rights, privileges and immunities Secured for me by the Constitution and the Laws of the United States. While acting under the Color of State Law § 32-5A-171(9) and in the clear absence of all Subject Matter jurisdiction

I. Introduction.

1. This is an action pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1981 and § 1983 & § 85 and 28 U.S.C. § 1343 Seeking redress for the deprivation of the plaintiff's Constitutional Rights. Venue is proper in the MIDDLE DISTRICT OF ALABAMA as all acts complained of occurred in Macon County of ALABAMA.

II. Jurisdiction.

2. This court has jurisdiction over this action under 28 U.S.C. § 1343(a)(3) for a Violation of Constitutional Rights as provided in 42 U.S.C. § 1981 and § 1983 & § 85. The plaintiff seeks Monetary Damages for restitution and and Cost pursuant to 42 U.S.C. § 1988, and to vacate Judgment of the Municipal Court.

3. The plaintiff seeks redress for Violation of the plaintiff's Rights pursuant to the Fourth Amendment of the Constitution of the United States to be free from illegal Seizures, the plaintiff's right to be free from police harassment and intimidation as provided for in

the fifth and SIX Amendments of the Constitution of the United States; the Plaintiff's Right to be free from Malicious Abuse of Process and Unlawful Seizures as provided for by the fourth and fourteenth Amendments to the Constitution of the United States; and the Plaintiff's Right to Due Process and equal Protection of the Law as guaranteed by the fourteenth Amendment to the Constitution of the United States.

III. Identity of Parties

4. The Plaintiff, ALONZO AUSTIN, is an adult African-American CITIZEN of the United States and of the State of ALABAMA residing in Tuskegee.

5. The Defendant's are CITY OF Tuskegee and Mayor: Johnny Ford, Municipal Judge: Albert C. BULLS III, Police Chief: Patrick, Prosecutor R. Keith Thomas, and City Police officer Bernice Dawson.

Tuskegee is a public body corporate which has been organized and which exists under and Pursuant to the Laws of the State of ALABAMA.

Tuskegee has been Authorized and empowered by the Laws of the State of ALABAMA, to establish a municipal Court facility.

Pursuant to § 12-14-2. (a) and (b). The above Named Defendant's have each been duly appointed to their respective positions and each is presently serving in such Capacity and have under their jurisdiction, management and Control ~~over~~ matters referred to herein, including

6. Acting under color of the Authority Conferred upon them by the Laws of the State of ALABAMA and the Ordinances of Tuskegee the Defendants have adopted and are presently pursuing a policy, practice, custom and usage of operating a "speed trap" approximately a quarter of a mile out side of city limits along State Hiway #81 N toward Interstate 85 where the maximum Speed Limit pursuant to §32-5A-171(6) is 55 mph.

7. Plaintiff is a member of a protected class for purposes of the Equal Protection Clause.

8. At all times relevant to the allegations contained herein. The above named Defendants acted under the color of State Law, Regulations, Customs, and Policies.

IV.

FACTS.

9. On July 5, 2007 at 8:40 am Plaintiff was an operator of a vehicle in the County of Macon, ALABAMA Near old Western IN, heading North on 81.

10. On July 5, 2007 at 8:40 am Defendant City Officer Bernice Dawson, was wearing the uniform of the Tuskegee City Police and was operating a vehicle identified as a Tuskegee Police UNIT, Near 81 N. and I-85

11. On July 5, 2007 without Probable Cause or justification Defendant Bernice Dawson activated the emergency Lighting System of

Patrol Vehicle and Caused Plaintiff to Stop my Vehicle, in the Old Western INN Parking Lot.

12. On July 5, 2007 Defendant Bernice Dawson issued to Plaintiff, Citation Number N0966261 Charging Plaintiff with Violating State Statute §32-5A-171 relating to Speeding Cited For Doing 60 mph in a 45 mph Zone out Side of City Limits along State Highway 81N. A Copy of the Citation is attached hereto and incorporated herein as exhibit "I".

13. Following the issuance of the Citation Plaintiff Moved for a Dismissal on the grounds that municipal Court Lacked Jurisdiction or in the alternative Motion for trial by Jury. Both motions were Denied by Municipal Judge Albert C. BULLS III.

14. Municipal Court Judge Albert C. BULLS III Order Plaintiff to raise right hand which I did under duress then Judge Bulls, ask Plaintiff for his Plea and Plaintiff replied with all Due respect Judge, this Court Lacks Jurisdiction and with that being said the Judge entered a Plea of Not guilty on my behalf and again Plaintiff objected but to no avail. Prosecutor R. Keith Thomas, City Officer Bernice Dawson and Municipal Judge Albert C. BULLS III over my objections Conducted the trial finding Plaintiff Guilty of Speeding 55 mph in 45 mph Zone. With a \$120⁰⁰ fine and Court Cost plus points.

15. Plaintiff paid the fine of \$120⁰⁰ on 8/20/07 as order by Municipal Judge, Albert C. BULLS III. And plaintiff received a receipt from the CITY OF TUSKEGEE, a named Defendant within this Complaint. See attached as exhibit 2¹

16. Municipal Judge Albert C. BULLS III and the other Defendants officers acted with actual malice toward plaintiff and with willful and wanton indifference to and deliberate disregard for the Statutory and Constitutional rights of plaintiff. Municipal Judge BULLS actions and the actions of the other Defendant officers constitute malicious Abuse of Process and deprivations of Rights Liberties and immunities without Due process OF LAW.

17. upon information and belief, at all times pertinent hereto, Tuskegee permitted and tolerated a pattern and practice of shooting Radar outside of corporate limits of the Municipality. Along State hi way 81 Near I-85.

COUNT I; VIOLATION OF CONSTITUTIONAL RIGHTS

Defendants Judge BULLS, prosecutor Thomas, & officer Dawson.
Compensatory Damages, \$100,000⁰⁰

18. plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 17.

19. The intentional denial of plaintiff Alternative Motion for trial by jury and instead finding Plaintiff Guilty in a Non jury trial by Defendants judge BULLS,

R. Keith Thomas and City police officer Bernice Dawson, violated the rights of Plaintiff as guaranteed by the 5th amendment to the United States Constitution, for which defendant officers are individually liable. (Compensatory Damages) \$100,000

COUNT II; VIOLATION OF CONSTITUTIONAL RIGHTS.

Defendant City of Tuskegee and Supervisor, Patrick. and Mayor Ford, (Compensatory Damages) \$100,000

20. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 19.

21. At all times pertinent hereto, Defendant Bernice Dawson, was acting within the scope of her employment and pursuant to the aforementioned policies and practices of Tuskegee. These policies and practices were enforced by the Defendants Chief Patrick and Mayor Ford, and were the moving force, proximate cause, or affirmative link behind the conduct causing the Plaintiff's injury. Tuskegee and defendant's Patrick and Ford are therefore liable for the violation of Plaintiff's Constitutional rights by Defendant Bernice Dawson.

COUNT III VIOLATION OF CONSTITUTIONAL RIGHTS

Defendants: Bulls, Thomas, and Dawson
(Exemplary Damages) \$250,000

22. Plaintiff incorporates herein by reference

the allegations contained in paragraphs 1 through 21.

23. The Defendants wrongful prosecution of Plaintiff for speeding on a state hi way outside of corporate limit of the municipality where the state maximum speed limit is 55 and where Defendant ~~Judge~~ BULLS and prosecutor R. Keith Thomas and in concert with City Police Officer Bernice Dawson acted under color of State Law and in the clear absence of all Subject matter jurisdiction. Disregarding Constitutional Rights of plaintiff. plaintiff is thus entitled to exemplary Damages.

COUNT IV; VIOLATION OF STATUTORY CIVIL RIGHTS
Defendants BULLS, THOMAS and Dawson
(Compensatory Damages) \$100,000 ~~00~~

24. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 23.

25. The Defendants wrongful prosecution and the issuing of the unlawful and invalid Traffic Ticket pursuant to § 32-5A-171 without the sub Section thereto was done deliberate and with malice toward Plaintiff and the total disregard for the Statutory Civil Rights of Plaintiff.

COUNT V; CONSPIRACY TO VIOLATE CIVIL RIGHTS
Defendants BULLS, THOMAS and Dawson
(Compensatory Damages) \$100,000 ~~00~~

26. Plaintiff incorporates herein by reference the Allegations contained in paragraphs 1 through 25.

27. Defendants Judge BULLS, Prosecutor Thomas and City police Dawson conspired to violate Plaintiff Statutory Civil Rights as more fully described in the foregoing paragraphs in violation of 42 U.S.C. § 1983, for which Defendants BULLS, Thomas and Dawson are individually liable.

COUNT VI RESPONDEAT SUPERIOR LIABILITY

Defendant: CITY OF TUSKEGEE

(Compensatory Damages) \$100,000.00

28. Plaintiff incorporates herein the Allegations contained in paragraphs 1 through 27.

29. At all times pertinent hereto, Defendants BULLS, Thomas and Dawson were acting within the scope of their employment as an officer of Tuskegee Police Department and Municipal Court.

30. The State of ALABAMA, is liable for compensatory damages under the Doctrine of respondeat superior for the intentional torts of Defendants, BULLS, Thomas and Dawson committed within the scope of their employment.

COUNT VII RESPONDEAT SUPERIOR LIABILITY.

Defendants BULLS, Thomas, and Dawson
(Compensatory Damages) \$200,000.00

31. plaintiff incorporates herein the allegations contained in paragraphs 1 through 30.

32. Tuskegee through its agents expressly authorized Defendants City police officer Bernice Dawson to illegally shoot Radar on 81 N. outside of the municipal city limits, and to unlawfully stop vehicles along state hi way 81 outside of city limit and to issue tickets for speeding to any vehicle legally traveling the maximum legal speed of 55 mph on such hi way claiming instead that said speed limit is 45 mph. Defendants BULLS and prosecutor Thomas, would then prosecute unlawful action as if it was lawful. With Tuskegee acquiescing in the Defendant's wrongful conduct as was done to plaintiff in the clear absence of all subject matter jurisdiction and under color of state law. Plaintiff is thus entitled to exemplary damages against Tuskegee for the malicious conduct of Defendants.

COUNT VIII MALICIOUS ABUSE OF PROCESS
Defendants. BULLS, THOMAS and DAWSON
(Compensatory Damages) \$100,000.00

33. Plaintiff incorporates herein the allegations contained in paragraphs 1 through 32

34. Defendants Judge BULLS, Prosecutor Thomas and City Police Bernice Dawson, used

Criminal process against Plaintiff in order to intimidate him and to dissuade Plaintiff from asserting his rights against Defendants in order to cover up their own wrongdoing and to avoid Civil and Criminal Liability for their own acts.

35. Defendants Bulls, Thomas and Dawson knowingly prosecuted Plaintiff against the Statute § 32-SA-171(9) and his motion to dismiss for lack of jurisdiction or in the alternative motion for trial by Jury in violation of Plaintiff 6th Amendment rights to the Constitution of the United States.

36. As a proximate result of this malicious abuse of process Plaintiff suffered the damages as aforesaid.

WHEREFORE Plaintiff request that this Court enter judgment against Defendants and award the following amounts;

- a. \$ 600,000⁰⁰ Compensatory damages in favor of Plaintiff
- b. \$ 450,000⁰⁰ exemplary damages in favor of Plaintiff
- c. Cost of this action to Plaintiff and to set a side Municipal Court order and \$120⁰⁰ fine against Plaintiff.
- d. Such other and further relief as the Court may deem appropriate;

Alonzo Austin prose
by: Alonzo Austin, prose
ALONZO AUSTIN

1321 Oliver-Carlis Rd, Tuskegee, AL 36083, (334) 727-5476

Exhibit 17

FORM UTC-1
REV. 3/97ALABAMA UNIFORM TRAFFIC
TICKET AND COMPLAINT

COURT CASE NO.

07/1959

ALABAMA, COUNTY OF

CO.

CITY

TICKET

NUMBER

N 0966261

The undersigned, being duly sworn, deposes and says that he/she has probable cause to believe and does believe that the person herein named did, within the previous 12 months, commit the offense set forth contrary to law in that: on or about

07/05/07 846

TYPE VEHICLE

☐ Commercial☐ Haz-Mat Involved☐ Other☐ Private

First Name

Middle/Maiden

Last

Address

Street

City

State

Zip Code

State

Driver's License Number

Class of License

Sex

Race

DOB

M

Social Security Number

Drivers License

☐ Yes☐ No

in Possession

Height

Weight

Eyes

Hair

Vehicle Tag Number

State

Year

Vehicle Description

Owner of Vehicle

☐ Driver☐ Employer☐ Other

Employer/Owner of Vehicle (Address)

☒ Did unlawfully operate a motor vehicle, other vehicle, or ☐ otherwise unlawfully use a public street, road, highway or other place, at or near

AL 81, within the ☐ city limits or ☐ police jurisdiction of Tuskegee, or ☐ within Macon County, at or near the following location

AL 1998 in violation of ☐ Section 29-5A-171 Code of Alabama 1975, or Rule/Regulation number (or) ☐ Municipal Ordinance No. 87/7, duly adopted and in force at the time the offense was committed, (if applicable) ☐ adopting Section Code 1975, more particularly described below:

CHECK THE APPROPRIATE BLOCK:

- 1 ☐ Speeding 60 MPH 45 Speed Limit
2 ☐ Reckless Driving
3 ☐ Driving Without First Obtaining a Driver's License
DID DRIVE OR BE IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE:
4 ☐ There was .08% or More By Weight of Alcohol in His/Her Blood
4 ☐ Under the Influence of Alcohol
5 ☐ Under the Influence of Controlled Substance
71 ☐ Under the Combined Influence of Alcohol and Controlled Substance
72 ☐ Under the Influence of any Substance which Impairs the Mental or Physical Faculties
6 ☐ Failure to Yield Right of Way
☐ Other Violation (Specify)

UCR Code

KM No.

Street/Road Code

- 7 ☐ Driving While Revoked
8 ☐ Driving While Suspended
10 ☐ Running Red Light
13 ☐ Improper Equipment (Specify)
14 ☐ Improper Passing
28 ☐ Improper Tag (Specify)
29 ☐ Improper Turn
42 ☐ Overweight Vehicle
61 ☐ Child Restraint Violation
77 ☐ Seat Belt Violation

FACTS RELATING TO THE OFFENSE:
(Witnesses, etc)☐ Companion Case (Traffic, Non-Traffic, Felony, Other)
☐ Accident Involved

Complainant's Signature

Officer ID

Agency ORI

Verified and Acknowledged before me this date

(Circle Title) Judge/Magistrate

7/9/07

☒ Municipal☐ District Court

COURT APPEARANCE INFORMATION

Phone

Court Appearance Date

Time

☐ AM☐ PM

Court Address

I Promise to appear in court at said time and place or otherwise comply with the provisions of this complaint and instructions of the notice part of this ticket.

Defendant's Signature

Phone ()

☐ Released on Own Recognizance☐ Driver's License Posted in Lieu of Bond

NAME

TICKET # N 0966261

CASE #

N/O

ABSTRACT OF COURT RECORD - DPS DATA INPUT

receipt2.prn

Case Number:	<u>TR-07-001959</u>	Date:	<u>8/20/07</u>
Name:	<u>ALONZO AUSTIN</u>	Time:	<u>09:19:36</u>
Record Number:	<u>0019407</u>	Source:	<u>RK/TUSCARLA</u>
Receipt Number:	<u>0003834</u>	Cashier:	_____
Payment Type:	_____	Paid by Bond Forfeiture:	_____

<u>\$20.00</u>	Fine Payment
<u>\$100.00</u>	Court Cost Payment
<u>\$.00</u>	Restitution/Other Payment
<u>\$.00</u>	Cash Bond
<u>\$120.00</u>	Payment Total

<u> \$. 00 </u>	Fine Balance
<u> \$. 00 </u>	Court Cost Balance
<u> \$. 00 </u>	Restitution/Other Balance
<u> \$. 00 </u>	Total Balance Due
<u> \$. 00 </u>	Cash Bond Balance

[illegible]

\$. 00

Court Name: U S DISTRICT COURT - AL/M
Division: 2
Receipt Number: 4602000215
Cashier ID: khaynes
Transaction Date: 08/23/2007
Payer Name: ALONZO AUSTIN

CIVIL FILING FEE
For: ALONZO AUSTIN
Case/Party: D-ALM-3-07-CV-000754-001
Amount: \$350.00

CASH
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

AUSTIN V. CITY OF TUSKEGEE ET AL